

REMARKS

In the June 15, 2004, Office Action, it was noted that Applicants' nonpublication request was not rescinded, that the invention disclosed in the present patent application is the subject of WO 2002/061955, EP 1330882, and AU 2002249880, and that there was no notification of the foreign (or multilateral) filings. Accordingly, it was indicated that the application would be held abandoned, and that Applicants should file a petition under 37 CFR 1.137(b)(f).

The Examiner indicated that Applicants' application data sheet ("ADS") had an improper claim of domestic priority to U.S. Provisional Patent Application No. 60/240,898.

The Examiner noted Applicants election of the claims in Group IV without traverse. Claims 1-9 and 10-27 were withdrawn from consideration as being drawn to nonelected inventions.

Claim 28 was objected to as containing a typographical error. Claim 17 was rejected under 35 U.S.C. Section 112, second paragraph, as being indefinite.

On the merits, Claims 10-13 were rejected under 35 U.S.C. Section 102(b) as being anticipated by Houck. Claims 14-17, 28, and 29 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over Houck. The Examiner stated that he took official notice that "the use of photo detectors in such systems was old in the art." The

Examiner also took official notice that "the use of the low- and high-pass filters is well known in the art."

First, with regard to the failure to withdraw the nonpublication request, Applicants are concurrently filing a Petition to Revive. That document is not included with this Amendment B since it is directed to a different mail stop. Applicants were unaware of this issue, since prior counsel for Applicants evidently made this error in the present application and a number of other related Applications, and Applicants' undersigned attorney is currently in the process of correcting these errors. Applicants gratefully acknowledge the Examiner's notation of this issue, and are sincerely appreciative of the Examiner bringing the issue to Applicants' attention.

With regard to the issue of the ADS, Applicants enclose herewith an updated data sheet. The domestic priority information is correct, and it is noted that the ADS originally filed with the application contained a typographical error which referred to U.S. Provisional Patent Application No. 60/240,898 instead of to U.S. Provisional Patent Application No. 60/242,898. The present patent application contained a reference to the correct provisional patent application in the first paragraph on page 1 thereof under the heading Cross-Reference to Related Applications. Applicants filed a Request for Corrected Filing Receipt on June 5, 2002, but the correction has apparently not been made. The Examiner's assistance on this issue is earnestly solicited at this time.

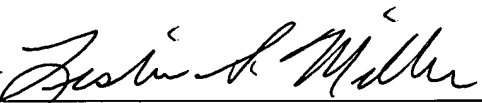
Typographical errors in Claims 28 and 29 have been corrected. In addition, the indefiniteness issue in Claim 17 has also been corrected. The Examiner's attention in noting these issues is appreciated. The withdrawn claims have been cancelled, and the remaining claims have been amended.

Applicants believe that the Examiner's comments with regard to official notice are incorrect and improper, in that the matters of which the Examiner takes official notice are inappropriate for the application of official notice, instead requiring the production of prior art. However, in view of the amendments to the claims, Applicants believe that the Examiner's comments are moot, since the claims as amended clearly define the present invention over the prior art.

Accordingly, Claims 10-19, 28, and 29 remain pending and are believed to be in condition for allowance at this time. As such, Applicants respectfully request reconsideration of the application, with an early and favorable decision being solicited.

Should the Examiner believe that the prosecution of the application could be expedited, the Examiner is requested to call Applicants' undersigned attorney at the number listed below.

Respectfully submitted:

BY 
Leslie S. Miller
Attorney for Applicants
Registration No. 30,662

Reinhart Boerner Van Deuren s.c.
1000 North Water Street, Suite 2100
Milwaukee, WI 53202

(414) 298-8321

Customer No. 22922

MW/1134366